Keenan, Dru

From:	Carrie Sanneman [sanneman@willamettepartnership.org] Kaila — for FW T instead
Sent:	Friday, May 10, 2013 3:33 PM
To:	hbre461@ECY.WA.GOV; marti.bridges@deq.idaho.gov; Ranei Nomura; David Primozich; Keenan, Dru; Stewart, William C.; Sam Baraso; Julie Hulbert
Cc:	Bobby Cochran
Subject:	Re: Scheduling BMP group call
Attachments:	Agenda BMP Subgroup Meeting #1_2013 05 10.docx; Discussion Guide_ Draft Outline of BMP Approval Process_2013 05 10.docx; Discussion Guide_Draft BMP Quality Standards and Crediting Procedures_2013 05 10.docx

Hi everyone,

Attached is the agenda for Tuesday's call (2-3pm PST) with the "BMP subgroup" and some brief materials to review (1 1/2 page each) and mull over a little before the call. Call-in information is below. I don't think we should need the webinar portion.

- **Discussion Guide_Draft Outline for BMP Approval Process** - Sam and I have been reviewing existing processes for BMP approval. This outline includes a basic process and the questions that we'll need to answer to develop a more robust draft.
- **Discussion Guide_Draft BMP quality standards and crediting procedures** - This is a draft list of the information that would be needed to evaluate whether a BMP "has what it takes" to be used for trading.

Ranei - I know that you won't be able to attend and I'm very sorry that we weren't able to give you enough time to review the materials before you leave on vacation. We'll be sure to catch you up to speed when you return and get your feedback.

Enjoy the weekend, we look forward to speaking with you all on Tuesday.

Best,
Carrie

1. Please join my meeting, Tuesday, May 14, 2013 at 2:00 PM Pacific Daylight Time. https://www2.gotomeeting.com/join/361536602 2. Use your microphone and speakers (VoIP) - a headset is recommended. Or, call in using your telephone. Dial 1 (267) 507-0004 Access Code: 361-536-602 Audio PIN: Shown after joining the meeting Meeting ID: 361-536-602

On Wed, May 1, 2013 at 11:48 AM, Carrie Sanneman <sanneman@willamettepartnership.org> wrote:
Hi,

Coming out of the last workshop, we heard the need for a subgroup to continue working through issues related to BMPs - what's the process for reviewing practice-related science and standards, what criteria should we apply when evaluating them, what BMPs are currently applied or approved and what quality standards are associated with them? - Since then, Sam Baraso, another WP staff member, and I have been gathering the practices, standards, and example processes from you all and reviewing them to pull out areas of consistency and questions for the group to discuss.

Now, we're ready to schedule a call with this group to get the discussion moving. You'll be hearing from Musa Jaman in the next couple days with a Doodle poll to determine availability. We'll be shooting for the week after next, with a few other options thrown in to improve our chances of finding a winner. Please let me know if I've missed anyone.

We'll send out a draft agenda when we get the date set. Looking forward to it!

Best,
Carrie

--
Carrie Sanneman
Willamette Partnership
Ecosystem Services Project Manager

elements & practices

BEST PRACTICES FOR WATER QUALITY TRADING JOINT REGIONAL AGREEMENT

Agenda – BMP Subgroup Meeting

Bill

Date/time: May 14th, 2013, 2:00PM – 3:00PM PDT
Location: Conference Call
Dial +1 (267) 507-0004
Access Code: 361-536-602
https://www2.gotomeeting.com/join/361536602

Contact: Carrie Sanneman, Willamette Partnership
(503) 894-8426
sanneman@willamettepartnership.org

2:00PM – 3:00PM

1. Introductions and Overview — 2:00 PM
2. BMP Approval Process — 2:10 PM
   - *Materials: Discussion Guide_BMP Approval Process Draft Outline_2013 05 10*
     - *Does the general outline make sense?*
     - *What feedback can you give us as we put together a draft process?*
       1. *What is your ability to convene a review panels?*
       2. *Does it matter who produces technical analyses?*
       3. *What options are available to fund this process?*
3. BMP Quality Assurance Standards — 2:35 PM
   - *Materials: Discussion Guide_BMP evaluation criteria and quality standards*
     - *Are these the right categories? The right criteria?*
     - *What's missing? What shouldn't be there?*
     - *What other information or examples would be helpful to inform this?*
4. Next Steps — 2:50 PM

   Adjourn — 3:00 PM

BEST PRACTICES FOR WATER QUALITY TRADING
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Discussion Guide: May 10, 2013

Discussion Guides are intended to provide definitions, context, analysis, and options for addressing various components of water quality trading programs (e.g. trading ratios, BMP quality standards) that will be addressed through interagency discussions and workshops.

Draft Outline: Process for Adopting New Best Management Practices

While not all Best Management Practices are appropriate for generating credits, it's important to develop a system that is able evaluate and incorporate those BMPs that are effective in improving water quality in each watershed. This draft outline covers a general process for receiving and processing requests to approve new BMPs for trading. It was developed based on a similar process developed by the Chesapeake Bay Program's water quality implementation team and the Technology Assessment Protocol developed by Washington Department of Ecology's stormwater program. In addition to the general architecture of an approval process, it includes a list of considerations in developing such a process.

I. Pre-proposal

A water quality trading program may receive numerous requests to evaluate specific BMPs for inclusion in the program. In order to manage and prioritize requests so that most effective BMPs are identified and supported for use, agencies may want to utilize a pre-proposal phase to provide practice proponents with guidance early on and to weed out inappropriate proposals.

Questions to consider:

a. Who can submit a proposal to evaluate a BMP? Can anyone submit a proposal?
b. What information should be submitted in the pre-proposal phase?
    - e.g. name and detailed description of the proposed practice, land uses to which the BMP is applied
c. Who receives pre-proposals?
    - There are several agencies or groups that may review an initial request for BMP adoption/adaptation. These include relevant workgroups within state environmental agencies, designated management authorities, or trading program administrators, amongst others.
d. How will BMPs be prioritized for review?
    - e.g. BMPs identified in relevant Watershed Implementation Plans

II. Practice Review

The adoption or adaptation of a BMP for trading will involve significant work to develop definitions, quantification metrics, and monitoring frameworks. This information will then need to be reviewed and evaluated by relevant experts. Who these experts are, how they are

chosen, who develops the review submission, and expectations for review submissions will need to be defined. Clear expectations should help reduce costs and confusion while increasing the overall pace towards approval.

Questions to consider:

a. Who performs the technical analyses and how is ~~it~~ this analysis funded?
b. What information must be included for in a submission for expert review?
c. What standards should apply to govern the quality of data submitted for review?
d. What kinds of experts should be included in review of a BMP?
e. How many experts would ideally review a BMP? How will they be chosen?

III. Approval

Which group - / who has approval process.

After review of the proposed practice, the expert review panel will provide a recommendation to approve the practice or provide justification for rejection. That recommendation would then move through a predefined approval procedure that may include technical or policy workgroups, or others dependent on the structure and internal processes of each agency.

Questions to consider:

a. Who approves/rejects practices upon receiving a recommendation from the review committee?
    - Technical components (load estimates, BMP effectiveness, modeling)
    - Policy/Crediting implications
        1. Monitoring, tracking requirements
        2. Consistency with other BMPs and program goals

BEST PRACTICES FOR WATER QUALITY TRADING
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Discussion Guide, May 10th, 2013

Discussion Guides are intended to provide definitions, context, analysis, and options for addressing various components of water quality trading programs (e.g. trading ratios, BMP quality standards) that will be addressed through interagency discussions and workshops.

Draft Components of BMP Quality Standards and Crediting Procedures

The following table is a draft list of the information that would need to be developed and submitted with a proposed BMP. This includes basic information about the practice, quality standards, and procedures for credit issuance.

Category		Components	Notes
Basic Information		• Title and description of practice • Load sources addressed by BMP	
Contract Duration and Credit Disbursement		• Cumulative, annual, or seasonal practice • Useful life; effectiveness of practice over time • Factors affecting temporal performance of the practice, including lag time between establishment and full functioning	
BMP Quality Standards	Suitability/ Specific BMP Eligibility	• Eligible land-uses and practices • Locations in watershed where BMP is applicable • Potential interactions with other practices, e.g. riparian restoration with stream fencing increases combined effectiveness • Identification of ancillary benefits or unintended consequences, e.g. increased/reduced air emissions • Description of conditions where the BMP will not work (i.e. large storms) • Any negative results, e.g. relocated pollutants, negative pollutant reduction data	
	Design criteria	• Installation instructions/guidance, e.g. installation according to manufacturer standards and/or NRCS standards. • Verifiable criteria for installation, including:	For installation and management instructions, reviewers should consider the trade-off between using manufacturer's

		○ Quantitative criteria, e.g. 2600 stems/acre planting density, 100 ft minimum buffer width, 30% residual residue, 2 hour inflow water capacity, 100 ft. from surface water ○ Qualitative criteria for installation, e.g. watering hole outside riparian zone, fence/pipe material type • Management instructions/guidance, e.g. seeding rate, tillage plan, crop list, water application rates and method, fertilizer application rates and methods	instructions, which will be product-specific but may vary in quality, and NRCS-based or other procedures which will be consistent for the whole program.
	Monitoring	• Operation and maintenance requirements and how neglect alters performance • Description of how the practice will be tracked and reported, e.g. noting signs of erosion, measurement of vegetative cover, monitored irrigation systems.	
	Performance standards	• Verifiable criteria for performance, e.g. no rills or gullies wider than 6", stem density of 1600 stems per acre or greater, no more than 20% cover invasive species, at least 10 inches crop stubble height	
Credit Issuance Procedures	Validation	• Documentation that must be submitted to determine eligibility during a project screening/validation • Procedures for reviewing consistency with eligibility criteria	
	Credit Calculation Method	• Unit of measure • Modeling approach and/or tool ○ Technical documentation of modeling approach/tool, including model assumptions and estimates of uncertainty ○ Procedures/user guidance for consistent application of the model/tool • Alternative modeling approach and/or tool • Effectiveness estimate, including justifications/references	
	Verification	• Procedures for documenting pre- and post-implementation circumstances, e.g. farm records for 3 years prior, photo points documenting baseline condition, site visit after installation • Procedures for reviewing consistency of pre- and post-implementation conditions with quality standards, e.g. no more than 15% discrepancy between reported and verified values	

BEST PRACTICES FOR WATER QUALITY TRADING
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Draft Best Practice, June 27th, 2013

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This *Draft Best Practice* document was based on discussion at the April 9th and 10th workshop. It is intended to represent apparent points of consensus among the attendees as to how each component of trading should operate. A number of the "draft best practices" reflect the 2003 U.S. EPA Trading Policy, and so where there is overlap, reference has been made to the policy. Many other draft best practices highlight the additional best practices or implementation elements recommended by the project partners. There are areas where the language provided below goes beyond the discussions in April, these additions are offered as suggestions to move the conversation forward and will be refined or removed through future review and comments. In many cases, areas for additional investigation were identified and have been listed here. As this additional research and discussion progresses, the practices are likely to be expanded. When acceptable to all parties, the Draft Best Practice will be posted on the web. These "draft best practices" only represent recommendations. Inclusion of these practices in the JRA will not result in implementation. Participating states may choose to incorporate these draft best practices into their own trading program rules or guidance.

Deleted: Come November, or other agreed upon consensus point, Draft Best Practice documents may be changed to Pilot Best Practices

1. Eligibility for Water Quality Trading 2
   1.1 Eligible regulatory trading environments 2
   1.2. Eligible credit buyers 3
   1.3. Trading area 4
   1.4. Eligible pollutants for trading 5
   1.5. Eligible credit-generating actions 5
4. Project Implementation and Quality Assurance Standards 7
   4.1 Project screening/validation 7
   4.2 Consistency with other laws 7
   4.3 Project implementation quality assurance 8
   4.4 Project management plans; 4.5 Project stewardship requirements 8
7. Verification and Certification & 8. Registration 10
   7.1 - 7.2 Project site verifiers and verification 10
   7.3 Certification 11
   8.1 – 8.3 Registration 12

Each section includes **1)** a descriptive name of the best practice component and its definition (where applicable), **2)** proposed language for the draft best practice, **3)** commentary describing important considerations associated with the best practice, derived from agency comments and workshop discussions, and **4)** a list of those areas that will be addressed through further research, conversation with agency staff, and discussion through the Interagency Workshop series.

Deleted: Please review the and return comments by Thursday, May 24th ¶
Please direct feedback, questions, and comments to:¶
Carrie Sanneman • Willamette Partnership, Ecosystem Service Project Manager¶
sanneman@willamettepartnership.org • (503) 894-8426

1. Eligibility for Water Quality Trading

Trading is not appropriate for every watershed or in every situation. EPA's 2003 Trading Policy identifies some specific conditions under which trading may occur. The sections below describe the project partners' proposed eligibility criteria for individuals and entities seeking to participate in trading and generate credits. These criteria include those criteria already identified in EPA's trading policy. Recommendations below are based on the states' experiences with water quality trading to date, lessons from other areas of the country, and a pragmatic view of how trading should proceed in the Pacific Northwest given public budget constraints and environmental goals. Eligibility criteria cover topics such as regulatory trading environments, credit buyers, trading area, tradable pollutants, and actions that can generate credits.

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1.1 Eligible regulatory trading environments

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Draft Best Practice – Eligible environments: *The 2003 EPA Trading Policy notes that trading may be used to maintain high quality waters, in pre-TMDL impaired waters, pursuant to TMDLs, in pretreatment situations, and intra-plant. 68 Fed. Reg. 1608, 1610-1611 (Jan. 13, 2003). Trades in the Northwest will be considered primarily pursuant to NPDES permit issuance or renewal in basins covered by total maximum daily loads (TMDLs). Subject to agency discretion and conformance with CWA regulations, trading may also occur outside of a TMDL under other types of permits or regulatory tools, including but not limited to, CWA section 401 certifications, stormwater permits, variances, or memorandums of agreement that allow a regulated entity to begin complying with TMDL objectives in advance of NPDES permit renewal.*

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what is meant by this -- info about the exact trade or Trading Prgm in place.

require certain critical information.

Commentary: To evaluate and approve proposed potential trades, EPA, state agencies, and regulated entities benefit from having several important pieces of information in place or in development. The project partners noted that although the 2003 EPA Policy allows for pre-TMDL trading, trading in a TMDL environment is preferred because agencies or the EPA will have developed scientifically-sound pollutant parameters and load allocations to evaluate trades as part of the TMDL process.

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Proposals for trading outside of or prior to the development of a TMDL may be evaluated on a case-by-case basis provided that a TMDL-comparable analysis is undertaken. This context is challenging for many state agencies, as the associated analysis would require large amounts of staff time and capacity, and is likely to strain already limited staff resources. In order for agencies to consider trading prior to or outside of a TMDL in water quality limited water bodies, the following issues and information need to be available for analysis:

1. It is possible to identify pollutants, pollutant forms and sources, and the relative contribution of pollution by each source. This analysis needs to be performed by the agency, permittee, or a qualified third party;
2. Agencies, permittees, or a qualified third party have assessed alternatives available for pollution reduction, including available control technologies (and the costs associated with reducing such pollutants via technology);
3. Agencies have access to review any analysis completed by a permittee or external third-party;
4. Important areas for water quality improvement have been identified within the watershed to avoid localized impacts and maximize targeted water quality benefits;

BEST PRACTICES FOR WATER QUALITY TRADING JOINT REGIONAL AGREEMENT

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Draft Best Practice, June 27th, 2013

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This *Draft Best Practice* document was based on discussion at the April 9th and 10th interagency workshop and feedback received on the circulated *Discussion Draft* and *Meeting Draft*. It is intended to represent apparent points of consensus among the attendees as to the guiding principles underlying water quality trading. A number of the draft best practice "guiding principles" below reflect the 2003 U.S. EPA Trading Policy. Where there is overlap, reference has been made to the policy. This document includes additional guiding principles recommended by the project partners, and suggested language (that goes beyond the April 2013 discussions) intended to move the conversation forward. The added language can be refined or removed through future review and comments. When acceptable to all parties, the Draft Best Practice will be posted on the web. These draft best practice guiding principles only represent recommendations. Inclusion of these practices in the JRA will not trigger implementation. Upon completion of the JRA, participating states may choose to incorporate these draft best practice guiding principles into their own trading program rules or guidance, following their state's procedure for public participation and input.

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Guiding Principles for Water Quality Trading

Water links us in ways that underpin healthy communities, economies, and ecosystems. When Congress passed the Clean Water Act[1] (CWA) in 1972, it aimed to protect those links in ways that would restore the nation's waters to levels that would support fishing, swimming, and the other beneficial uses we rely on. Water quality trading is just one tool of many to help achieve the goals of the CWA and other public objectives.[2] Trading is not appropriate for many water quality challenges, and its efficacy must be evaluated in every watershed. When designed well and combined with other tools, however, trading programs can help achieve water quality goals in a way that is beneficial for landowners, communities, and the environment.

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One of the primary goals of trading, as identified in United States Environmental Protection Agency's (EPA) 2003 Water Quality Trading Policy (2003 EPA Trading Policy), is to encourage "voluntary trading programs that facilitate implementation of [total maximum daily loads (TMDLs)] reduce the costs of compliance with CWA regulations, establish incentives for voluntary reductions and promote watershed-based initiatives."[4] The 2003 EPA Trading Policy describes how water quality trading can comply with different requirements of the CWA and its implementing regulations. Recognizing that the CWA and its implementing regulations do not directly address water quality trading, the design of water quality trading programs should focus

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[1] Federal Water Pollution Control Act, 33 U.S.C. § 1251, et. seq. (2006).

[2] EPA, Water Quality Trading Policy, 68 Fed. Reg. 1608, 1609 (Jan. 13, 2003) ("Water quality trading is an approach" to "[f]inding solutions to [] complex water quality problems."), *available at* http://waterepa.gov/type/watersheds/trading/tradingpolicy.cfm.

[4] *Id.*

on how they can best support achievement of particular CWA goals.[5] Implementing TMDLs with greater efficiency and timeliness, while at the same time recognizing that flexibility is the key to innovative solutions, is where water quality trading shows its greatest potential.

Individual trading programs will inevitably face many unique situations and issues. These guiding principles are meant to anchor agencies and other stakeholders where best practices are not clearly defined or there is a need for a case-by-case decision.

Water quality trading is generally supported when it is consistent with the 2003 EPA Trading Policy and where it:

I. Allows sources to comply with their allocations and permit effluent limits in a way that:

a. Is linked directly to improving the beneficial uses that the TMDL and permit are designed to protect, and in addition, where possible also:

b. Addresses causes of pollutant of concern, while not negatively affecting other parts of the environment;

c. Achieves more pollution reduction than would have occurred without trading over a comparable period of time;

d. "[A]chieve[s] water quality and environmental benefits greater than would otherwise be achieved under more traditional regulatory approaches[;]"[6]

e. "[A]chieve[s] ancillary environmental benefits beyond the required reductions in specific pollutant loads, such as the creation and restoration of wetlands, floodplains and wildlife[, fish] and/or waterfowl habitat, reduction of multiple pollutants, etc.;"[7] and

f. Provides for the long-term stewardship and management of practices that produce water quality benefits;

II. Is based on sound science;

a. Bases program goals, credit quantification methods and adaptive management systems on sound science; and

b. Uses monitoring and evaluation to regularly improve and report on the progress toward water quality goals.[8]

Deleted: The following guiding principles are derived from the 2003 Policy, USEPA's 2007 Water Quality Trading Toolkit for Permit Writers, existing state agency trading documents, and Willamette Partnership's General Crediting Protocol.

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<#>Achieves pollution reductions and progress towards water quality standards more quickly than would have occurred without trading.¶

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[5] *Id.* at 1610 ("*CWA Requirements.* Water quality trading and other market-based programs must be consistent with the CWA.").
[6] *Id.* at 1609.
[7] *Id.* at 1610.
[8] *Id.* at 1612 ("*Program Evaluations.* Periodic assessments of environmental and economic effectiveness should be conducted and program revisions made as needed.").